REMARKS

Claims 22-28 remain pending in the present application. Claim 22 has been amended. Basis for the amendments can be found throughout the specification, claims and drawings as originally filed.

REJECTION UNDER 35 U.S.C. § 102 / § 103

Claims 22 and 23 are rejected under 35 U.S.C. § 102(b) as being anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as obvious over Stoll, (U.S. Pat. No. 2,175,488). Claims 22 and 23 are rejected under 35 U.S.C. § 102(b) as being anticipated by Kling (U.S. Pat. No. 464,100) or, in the alternative, under 35 U.S.C. § 103(a) as obvious over Kling (U.S. Pat. No. 464,100) in view of Nicholson (U.S. Pat. No. 2,548,443). Applicant respectfully traverses these rejections. The present invention is directed towards a clamping mechanism for clamping an object. Claim 22 has been amended to define the clamping arm and the housing as each defining a supporting surface adapted for engagement with the object to clarify the clamping mechanism.

Both Stoll and Kling disclose a non-releasable one-way clutch which is used in mechanisms that have nothing to do with a clamping mechanism. Stoll discloses a foot rest and Kling discloses a brake handle. Neither the arms of the foot rest or the handle can be defined as a clamping arm. Thus, Applicant does not believe either reference is a valid 35 U.S.C. § 102 reference.

Furthermore, in the case of In re Horn, 203 U.S.P.Q. 969 (C.C.P.A. 1979), Judge Watson clearly articulated the well-known standard for obviousness rejections under 35 U.S.C. Section 103. Judge Watson stated that "...there must be some basis for

concluding that the reference would be considered by one skilled in the particular art working on the pertinent problem to which the invention pertains". 203 U.S.P.Q. at 971 (emphasis added).

The C.C.P.A. also addressed the required standards for obviousness rejections under Section 103 in the case of In re Meng and Driessen, 492 F. 2d 834, 181 U.S.P.Q. 94 (C.C.P.A. 1974). In the Meng case, Chief Judge Markey stated that although an invention may appear to be rendered obvious by a disclosure in the prior art reference, such a holding of obviousness is not proper when the disclosure occurs in a reference that is not directed toward the same problem as that addressed by the invention. Judge Markey further cautioned that the teachings or suggestions of such a reference must be evaluated without the use of hindsight gleaned from the applicant's disclosure, and thus must be viewed in a vacuum so far as the applicant's invention is concerned. 181 U.S.P.Q. at 97.

Applicants submit that the proper test for evaluating prior art under 35 U.S.C. Section 103 is whether or not the prior art, either individually or taken together, can be seen as suggesting the Applicants' solution to the problem which the invention addresses. See: Rosemont, Inc. v. Beckman Instrument, Inc., 221 U.S.P.Q. 1, 7, (Fed. Cir. 1984). The scope of pertinent prior art has been defined as that reasonably pertinent to the particular problem with which the inventor was involved. See: Lindemann Machinefabrik GMBH v. American Hoist and Derrick Co., 221 U.S.P.Q. 481, 487 (Fed. Cir. 1984).

Thus, Applicant believes Claim 22, as amended, patentably distinguishes over the art of record. Likewise, Claim 23 which depends from Claim 21 is also believed to

patentably distinguish over the art of record. Reconsideration of the rejection is respectfully requested.

REJOINDER

Applicant respectfully requests the rejoinder of withdrawn Claims 25-28.

DOUBLE PATENTING

Claims 22-24 are rejected under the judicially created doctrine of double patenting over the claims of U.S. Pat. No. 6,449,851 since the claims, if allowed, would improperly extend the "right to exclude" already granted in the patent. Enclosed is a terminal disclaimer to overcome the rejection. Reconsideration of the rejection is respectfully requested.

CONCLUSION

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

Dated: March 8, 2004

By: _____
Michael J. Schmidt, 34,007

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. Box 828
Bloomfield Hills, Michigan 48303
(248) 641-1600

MJS/pmg